

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CYNTHIA D. PERDUM,

Plaintiff,

v.

WELLS FARGO HOME
MORTGAGE; SHAPIRO
PENDERGAST & HASTY, LLP,
NATIONWIDE TITLE CLEARING,
INC.; AND US DEPARTMENT OF
HOUSING AND URBAN
DEVELOPMENT,

Defendants.

Civil Action File No.:
1:17-cv-00972-SCJ-JCF

**DEFENDANT WELLS FARGO HOME MORTGAGE, A DIVISION OF
WELLS FARGO BANK, N.A.'S ANSWER AND AFFIRMATIVE
DEFENSES**

COMES NOW Defendant Wells Fargo Home Mortgage, a division of Wells Fargo Bank, N.A. ("Wells Fargo"), by special appearance, by and through its undersigned counsel, and files this response to Plaintiff's Complaint showing this Honorable Court as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against Wells Fargo upon which relief can be granted.

SECOND DEFENSE

Plaintiff's Complaint is barred by the doctrine of res judicata.

THIRD DEFENSE

Any damages sustained by Plaintiff were caused in whole or in part by the actions or inactions of Plaintiff or others, but not by the actions or inactions of Wells Fargo.

FOURTH DEFENSE

Some or all of Plaintiff's claims are barred by Plaintiff's failure to tender funds owed.

FIFTH DEFENSE

Some or all of Plaintiff's claims are barred by Plaintiff's failure to satisfy conditions precedent.

SIXTH DEFENSE

Plaintiff lacks clean hands to bring an action in equity.

SEVENTH DEFENSE

Wells Fargo reserves the right to assert any affirmative defense(s) and matter(s) in avoidance as may be disclosed during the course of additional investigation and discovery.

EIGHTH DEFENSE

Subject to, and without waiving any of its rights, defenses, or objections, Wells Fargo responds to the specific allegations contained in Plaintiff's Complaint as follows

RESPONSES TO PLAINTIFF'S COMPLAINT

1.

Wells Fargo denies the allegations contained in the paragraph titled "Brief Introduction" of Plaintiff's Complaint.

THE PARTIES

2.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 1 of Plaintiff's Complaint.

3.

Wells Fargo denies the allegations contained in Paragraph 2 of Plaintiff's Complaint.

4.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 3 of Plaintiff's Complaint.

5.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 4 of Plaintiff's Complaint.

6.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 5 of Plaintiff's Complaint.

7.

Wells Fargo denies the allegations contained in Paragraph 6 of Plaintiff's Complaint.

JURISDICTION AND VENUE

8.

The allegations contained in Paragraph 7 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

9.

The allegations contained in Paragraph 8 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

10.

The allegations contained in Paragraph 9 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

STATEMENT OF FACTS RELEVANT TO ALL CAUSES

11.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 10 of Plaintiff's Complaint.

12.

Wells Fargo denies the allegations contained in Paragraph 11 of Plaintiff's Complaint.

13.

Wells Fargo denies the allegations contained in Paragraph 12 of Plaintiff's Complaint.

14.

Wells Fargo denies the allegations contained in Paragraph 13 of Plaintiff's Complaint.

15.

Wells Fargo denies the allegations contained in Paragraph 14 of Plaintiff's Complaint.

16.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 15 of Plaintiff's Complaint.

17.

Wells Fargo admits the allegations contained in Paragraph 16 of Plaintiff's Complaint.

18.

Wells Fargo states that Paragraph 17 of Plaintiff's Complaint refers to a document that speaks for itself.

19.

Wells Fargo states that Paragraph 18 of Plaintiff's Complaint refers to a document that speaks for itself.

20.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 19 of Plaintiff's Complaint.

21.

Wells Fargo denies the allegations contained in Paragraph 20 of Plaintiff's Complaint.

22.

Wells Fargo denies the allegations contained in Paragraph 21 of Plaintiff's Complaint.

23.

Wells Fargo denies the allegations contained in Paragraph 22 of Plaintiff's Complaint.

24.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 23 of Plaintiff's Complaint.

25.

Wells Fargo states that Paragraph 24 of Plaintiff's Complaint refers to a document that speaks for itself.

26.

Wells Fargo states that Paragraph 25 of Plaintiff's Complaint refers to a document that speaks for itself.

27.

Wells Fargo admits that Plaintiff failed to comply with a loan modification attempt. Wells Fargo denies the remaining allegations contained in Paragraph 26 of Plaintiff's Complaint.

28.

Wells Fargo states that Paragraph 27 of Plaintiff's Complaint refers to a document that speaks for itself.

29.

The allegations contained in Paragraph 28 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

30.

Wells Fargo admits that it provided information responsive to Plaintiff's request. Wells Fargo denies the remaining allegations contained in Paragraph 29 of Plaintiff's Complaint.

31.

Wells Fargo denies the allegations contained in Paragraph 30 of Plaintiff's Complaint.

32.

Wells Fargo denies the allegations contained in Paragraph 31 of Plaintiff's Complaint.

33.

Wells Fargo denies the allegations contained in Paragraph 32 of Plaintiff's Complaint.

34.

Wells Fargo states that Paragraph 33 of Plaintiff's Complaint refers to a document that speaks for itself.

35.

Wells Fargo states that Paragraph 34 of Plaintiff's Complaint refers to a document that speaks for itself.

36.

Wells Fargo denies the allegations contained in Paragraph 35 of Plaintiff's Complaint.

37.

Wells Fargo denies the allegations contained in Paragraph 36 of Plaintiff's Complaint.

38.

Wells Fargo denies the allegations contained in Paragraph 37 of Plaintiff's Complaint.

39.

Wells Fargo denies the allegations contained in Paragraph 38 of Plaintiff's Complaint.

40.

Wells Fargo denies the allegations contained in Paragraph 39 of Plaintiff's Complaint.

41.

Wells Fargo admits that Plaintiff submitted a loan modification, but failed to make the required payments. Wells Fargo denies the remaining allegations contained in Paragraph 40 of Plaintiff's Complaint.

42.

Wells Fargo denies the allegations contained in Paragraph 41 of Plaintiff's Complaint.

43.

Wells Fargo states that Paragraph 42 of Plaintiff's Complaint refers to a document that speaks for itself.

44.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 43 of Plaintiff's Complaint.

45.

Wells Fargo states that Paragraph 44 of Plaintiff's Complaint refers to a document that speaks for itself.

46.

The allegations contained in Paragraph 45 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

47.

The allegations contained in Paragraph 46 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

48.

The allegations contained in Paragraph 47 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

49.

The allegations contained in Paragraph 48 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

50.

The allegations contained in Paragraph 49 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the

extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

51.

The allegations contained in Paragraph 50 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

52.

The allegations contained in Paragraph 51 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

53.

Wells Fargo states that Paragraph 52 of Plaintiff's Complaint refers to a document that speaks for itself.

54.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 53 of Plaintiff's Complaint.

55.

Wells Fargo denies the allegations contained in Paragraph 54 of Plaintiff's Complaint.

56.

The allegations contained in Paragraph 55 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

57.

The allegations contained in Paragraph 56 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

58.

Wells Fargo states that Paragraph 57 of Plaintiff's Complaint refers to a document that speaks for itself.

59.

Wells Fargo denies the allegations contained in Paragraph 58 of Plaintiff's Complaint..

60.

Wells Fargo denies the allegations contained in Paragraph 59 of Plaintiff's Complaint.

61.

Wells Fargo denies the allegations contained in Paragraph 60 of Plaintiff's Complaint.

62.

Wells Fargo states that Paragraph 61 of Plaintiff's Complaint refers to a document that speaks for itself.

63.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 62 of Plaintiff's Complaint.

64.

Wells Fargo denies the allegations contained in Paragraph 63 of Plaintiff's Complaint.

65.

Wells Fargo is without knowledge sufficient to either admit or deny the allegations contained in Paragraph 64 of Plaintiff's Complaint.

66.

Wells Fargo states that Paragraph 65 of Plaintiff's Complaint refers to a document that speaks for itself.

67.

Wells Fargo states that Paragraph 66 of Plaintiff's Complaint refers to a document that speaks for itself.

68.

The allegations contained in Paragraph 67 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

69.

The allegations contained in Paragraph 68 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

70.

Wells Fargo denies the allegations contained in Paragraph 69 of Plaintiff's Complaint.

71.

Wells Fargo denies the allegations contained in Paragraph 70 of Plaintiff's Complaint.

72.

Wells Fargo denies the allegations contained in Paragraph 71 of Plaintiff's Complaint.

73.

Wells Fargo denies the allegations contained in Paragraph 72 of Plaintiff's Complaint.

74.

The allegations contained in Paragraph 138 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

75.

The allegations contained in Paragraph 139 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof.

76.

The allegations contained in Paragraph 140 of Plaintiff's Complaint state a legal conclusion and therefore do not warrant a response from Wells Fargo. To the extent that said allegations may imply liability against Wells Fargo, Wells Fargo denies and demands strict proof thereof..

77.

Wells Fargo denies the allegations contained in Paragraph 141 of Plaintiff's Complaint.

78.

Wells Fargo denies the allegations contained in Paragraph 142 of Plaintiff's Complaint.

79.

Wells Fargo denies the allegations contained in Paragraph 143 of Plaintiff's Complaint.

80.

Wells Fargo denies the allegations contained in Paragraph 144 of Plaintiff's Complaint.

81.

Wells Fargo denies the allegations contained in Paragraph 145 of Plaintiff's Complaint.

82.

Wells Fargo denies the allegations contained in Paragraph 146 of Plaintiff's Complaint.

83.

Wells Fargo denies the allegations contained in Paragraph 147 of Plaintiff's Complaint.

84.

Wells Fargo denies the allegations contained in Paragraph 148 of Plaintiff's Complaint.

85.

Wells Fargo denies all remaining allegations contained within Plaintiff's Complaint as all such claims were dismissed by order of this court.

86.

Wells Fargo denies the allegations contained in Plaintiff's Prayers for Relief and further denies that Plaintiffs is entitled to any relief against Wells Fargo whatsoever.

87.

Wells Fargo denies any allegation not explicitly admitted herein.

WHEREFORE, having fully responded to each and every allegation contained in Plaintiff's Complaint, Wells Fargo respectfully prays as follows:

- (a) That judgment be entered in Wells Fargo's favor on all counts of Plaintiff's Complaint;
- (b) That Plaintiff's Complaint be dismissed with prejudice, with all costs cast against the Plaintiffs; and
- (c) That Wells Fargo be granted all further relief which this Court may deem just and proper.

Respectfully submitted, this 22nd day of February, 2018.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

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/s/ Dylan W. Howard

Dylan W. Howard
Georgia Bar No. 370267
*Attorney for Defendant Wells Fargo
Home Mortgage, a division of Wells
Fargo Bank, N.A.*

CERTIFICATE OF SERVICE

This will certify service of a copy of the foregoing **DEFENDANT WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS FARGO BANK, N.A.'S ANSWER AND AFFIRMATIVE DEFENSES** by the CM/ECF online filing system with the U.S. District Court for the Northern District which will automatically send email notification to all counsel of record:

Cynthia D. Perdum *pro se*
5100 King Arthur Lane
Ellenwood, Georgia 30294
(via U.S. Mail only)

This 22nd day of February, 2018.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**
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